

REMARKS

Claims 1-18 stand rejected under 35 U.S.C. § 112, second paragraph. According to the Office Action of August 31, 2005, Claims 1-18 are "indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention." Without admitting that Claims 1-18 fail to comply with 35 U.S.C. § 112, second paragraph, the Applicant cancels Claims 1-18, and presents herewith new added Claims 19-29.

In rejecting Claims 1-18, the Office Action states "(I)n claim 1, lines 2 and 3, it is suggested that the claim state whether or not the adhesive and the at least one color former are in the same layer or different layers, and if the latter what is the specific order of the tape layers."

"The essential inquiry pertaining to this requirement (35 U.S.C. § 112, second paragraph) is whether the claims set out and describe a particular subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of: (A) The content of the particular application disclosure; (B) The teachings of the prior art; and (C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made." MPEP Section 2173.02.

The application disclosure states that the adhesive and the color former may be in the same layer or in different layers. There is no specific required order of the layers according to the Specification. The Examiner's attention is called to page 3, line 21 through page 4, line 9 of the Specification. See also drawing Figs. 1-4, and particularly note the combination layer 5 of Fig. 3 and the combination layer 6 of Fig. 4. It is respectfully submitted that Claim 1 and Claim 10 as originally submitted are not indefinite in view of the application disclosure, particularly as the claims would be interpreted by one possessing an ordinary level skill in the pertinent art. Further, the rejection would require the applicant to limit the invention beyond what the applicant is entitled to claim, since the invention specification discloses embodiments that are broader than the suggested amendment to the claim.

Similarly, the Office Action states that it is suggested to use "mixed" in place of combined. See Claim 3, now cancelled, and Claim 21, now cancelled. However, the Specification states at page 4, line 8 that the materials are "combined." One skilled in the art will understand this term, and it is not indefinite.

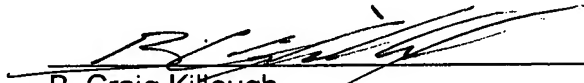
The applicant has eliminated the phrase "at least one" from the claims (*i.e.*, "at least one color former"). The use of the transitional term "comprising" in the preamble renders the use of the phrase "at least one" unnecessary.

Title: TEAR INDICATOR FOR TAPE
App. No.: 10/714,208
Attorney Docket No.: 2547.001

Examiner: Daniel Zirker
Art Group: 1771

It is respectfully submitted that Claims 19-29 are in condition for allowance.
Review and allowance at the earliest possible date is requested.

Respectfully submitted,



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